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REMARKS

Claims 21 and 23 are amended and Claims 29-47 are added. Claims 21-47 are pending in the application, of which Claims 21-28 stand rejected.

Claim 21 had been amended to recite the ability of the claimed device to collect and store *liquid exudate from a wound or incision on a user*. The fluid connection of the tube recited in the claim has been clarified. The tube includes a *first end* in fluid communication with the chamber and a *second end in fluid communication with the wound or incision to transmit the liquid exudate from the wound or incision to the chamber*. The claim has also been amended to clarify that *liquid exudate* is among the fluid that is being drawn from the wound or incision and trapped by the trapping agent. No new matter is added by the amendment of Claim 21. Support for the amendment may be found, for example, in the specification at page 11, lines 5-7 and at page 12, lines 12-17.

Applicant has added no new matter with the submission of new claims 29-47. Each of the Claims 29-47 includes elements that are not disclosed, taught, or suggested by Skalla or the other previously cited references, either alone or in combination. For example, Claims 29 and 41 include *a tube having a first end in fluid communication with said chamber and a second end in fluid communication with the wound or incision during healing of the wound or incision*, as well as other limitations, that are not disclosed, taught, or suggested by the cited references, alone or in combination. Claim 37 includes *a tube having a first end in fluid communication with said chamber and a second end in fluid communication with the wound or incision to transmit the liquid exudate from the wound or incision to the chamber*, as well as other limitations, that are not disclosed, taught, or suggested by the cited references, alone or in combination. Claim 45 recites that *the vacuum desiccator is generally flat and may be worn unobtrusively by a user and*

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is adaptable for collecting and trapping liquid exudate from the wound or incision in said chamber, which along with other limitations, is not disclosed, taught, or suggested by the cited references, alone or in combination.

Claim Rejections - 35 U.S.C. § 103

Claims 21-25 stand rejected under 35 USC § 103(a) as being unpatentable over U.S.

Patent No. 5,522,808 (Skalla). The Office Action stated:

Regarding claim 21, Skalla teaches a personally portable vacuum desiccator (2) comprising: a chamber (6) having a trapping agent (96)(col. 8, lines 42-49); a vacuum pump member (50) in gas/liquid communication (52) with the outlet port of the chamber (6); a motor operably connected to said vacuum pump (50)(figure 1)(col. 7, lines 53-65, incorporating by reference, Ametek Model No. 116763-13, which is an electrical motor powered vacuum, as a representative vacuum unit (see Ametek Product Bulletin for Model 116763-13); and a tube (10) in gas/liquid flow communication with said chamber (6); said tube (10) being positionable in gas/liquid flow communication with a wound or incision on a user; the vacuum desiccator (2) being transportable (figure 1); said vacuum pump (50) being operable to draw fluid from the wound or incision through said tube (10) and into said chamber (6); said trapping agent (96) having a capability of trapping a volume of the fluid.

Skalla thus teaches the claimed invention except for the desiccator being transportable on a user's person. Absent an unexpected result, making what is known in the prior art portable, can not patentably distinguish an invention over the prior art. *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results.). MPEP § 2144.04(V).

Regarding claim 22, Skalla teaches a trapping agent that is a desiccant (col. 8, lines 42-49).

Regarding claim 23, Skalla teaches a tube (10) comprising a single passage gal/liquid flow path.

Regarding claim 24, Skalla teaches a trapping agent (96) disposed in a removable cartridge (16, 18).

Regarding claim 25, Skalla teaches a control circuit (48, 68) which controls the motor and pump (50) (col. 8, lines 1-7).

Applicant respectfully disagrees that Skalla renders Claims 21-25 obvious, for at least the reason that the reference does not teach or suggest all of the claim limitations. With respect to amended Claim 21, the claim is directed to a "personally portable vacuum desiccator for

collecting and storing liquid exudate from a wound or incision on a user." The claim recites a "tube having a first end in fluid communication with said chamber and a second end in fluid communication with the wound or incision to transmit the liquid exudate from the wound or incision to the chamber. The claim further recites that the vacuum pump is "operable to draw liquid exudate from the wound or incision through said tube" and that the trapping agent has a capacity for "trapping a volume of the liquid exudate." Neither Skalla nor any other art of record, alone or in combination, discloses, teaches, or suggests such a personally portable vacuum desiccator.

Skalla is directed to a cart mounted apparatus that filters noxious gases from a surgery plume. While the reference discloses the possibility of injecting an aqueous oxidizing solution into the gaseous stream to aid in filtering, the fluid being filtered by Skalla is not *liquid exudate* from a *wound or incision*. Additionally, the "flexible hose 10" taught by Skalla and cited by the Examiner as being equivalent to Applicant's "tube" is not *in fluid communication with the wound or incision to transmit the liquid exudate from the wound or incision to the chamber*. Instead, the device of Skalla is placed above a surgical site to evacuate the surgical plume created by cauterization or use of laser scalpels to cut and/or burn tissue. The surgery plume is comprised of gaseous and particulate matter that may contain cyanide, formaldehyde, organic compounds, odor-causing species and moisture (Skalla, column 3, line 65 to column 4, line 4). These substances are removed through the flexible hose within an airstream. The aqueous oxidizing solution taught by Skalla is injected downstream of the flexible hose (see Skalla, FIG. 4) into the airstream containing the surgery plume. It is therefore clear that Skalla does not teach or suggest removing a *liquid exudate* through a tube that is *in fluid communication with the wound or incision*.

For the reasons stated above, Applicant submits that the Skalla reference does not, alone or in combination with any other art of record, render obvious Claim 21. Since Claims 22-25 depend from Claim 21, it follows that Claims 22-25 are also not rendered obvious by the teachings of Skalla. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 21-25 under 35 U.S.C. § 103(a).

The Examiner rejected Claims 26 and 27 under 35 USC § 103(a) as being unpatentable over Skalla in view of U.S. Patent No. 4,464,172 (Lichtenstein). The Office Action stated:

Lichtenstein teaches an automated medical care system that employs a pressure sensor (PS2) and an I/O circuit (101). At the time of the invention, it would have been obvious to one of ordinary skill in the art to add these elements to the device of Skalla in order to automate its functions. See *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined "old permanent-mold structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed." The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.). MPEP § 2144.04 (III).

For the reasons stated previously with respect to the rejection of Claim 21, Skalla does not, alone or in combination with any other art of record, render obvious Claim 21. Since Claims 26 and 27 depend from Claim 21, it follows that Claims 26 and 27 are not rendered obvious by the teachings of Skalla in combination with Lichtenstein. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 26 and 27 under 35 U.S.C. § 103(a).

The Examiner rejected Claim 28 under 35 USC § 103(a) as being unpatentable over Skalla in view of U.S. Patent No. 5,741,237 (Walker). The Office Action stated:

Skalla fails to claim a limitation where the chamber is transparent. Walker teaches that it is known in the art to use transparent canisters (1) for containing such material in order to visually inspect its content without opening the device (fig. 2).

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the transparent feature of Walker to the device of Skalla in order to allow such a person to visibly see the interior of the device.

For the reasons stated previously with respect to the rejection of Claim 21, Skalla does not, alone or in combination with any other art of record, render obvious Claim 21. Since Claim 28 depends from Claim 21, it follows that Claim 28 is not rendered obvious by the teachings of Skalla in combination with Walker. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 28 under 35 U.S.C. § 103(a).

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CONCLUSION

Applicant respectfully submits that the pending Claims 21-47 are in condition for allowance and such a Notice is respectfully requested. The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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